

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANDREW GILBERT,

Plaintiff,

-against-

THE CITY OF NEW YORK; NEW YORK CITY
POLICE DEPARTMENT ("NYPD") OFFICER
JOSEPH R. VINCENT, SHIELD NUMBER 23708;
AND NYPD OFFICER GRACE
ROSETO-TAPIA, SHIELD NUMBER 21698,

Defendants.
-----X

~~PROPOSED~~
JUDGMENT

23-cv-00421 (AKH)

WHEREAS, Plaintiff commenced this action by filing a complaint on January 17, 2023 alleging that Defendants violated Plaintiff's rights under the federal constitution and state law; and

WHEREAS, on October 26, 2023, pursuant to Rule 68 of the Federal Rules of Civil Procedure, Defendants City of New York, Joseph R. Vincent, Grace Rosero-Tapia, and any defendant who is currently or subsequently named and hereafter represented by the Office of the Corporation Counsel in this action ("Defendants") offered to allow Plaintiff to take judgment against Defendant City of New York in this action for the total sum of Three Thousand and One (\$3,001.00) Dollars, inclusive of Two Hundred and Fifty (\$250.00) Dollars from Joseph R. Vincent and Two Hundred and Fifty (\$250.00) Dollars from Grace Rosero-Tapia, plus reasonable attorneys' fees, expenses, and costs to the date of the offer – October 26, 2023 - for Plaintiff's federal claims; and

WHEREAS, on November 8, 2023, Plaintiff provided Defendants with written notice that Plaintiff had accepted Defendants' Rule 68 Offer of Judgment;

NOW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Pursuant to Rule 68 of the Federal Rules of Civil Procedure, Plaintiff hereby takes judgment against Defendant City of New York in this action for the total sum of Three Thousand and One (\$3,001.00) Dollars, inclusive of Two Hundred and Fifty (\$250.00) Dollars from Joseph R. Vincent and Two Hundred and Fifty (\$250.00) Dollars from Grace Rosero-Tapia, to Andrew Gilbert, plus reasonable attorneys' fees, expenses, and costs to the date of the offer – that is, October 26, 2023 – for Plaintiff's federal claims.
2. This judgment is in full satisfaction of all federal and state law claims or rights that Plaintiff may have to damages, or any other form of relief, arising out of the alleged acts or omissions of Defendants City of New York, Joseph R. Vincent, Grace Rosero-Tapia, or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.
3. Defendants' Offer of Judgment was made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by Defendants City of New York, Joseph R. Vincent, Grace Rosero-Tapia, or any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that Plaintiff has suffered any damages.
4. By accepting the Defendants' Offer of Judgment, Plaintiff Andrew Gilbert releases and discharges Defendants City of New York, Joseph R. Vincent, Grace Rosero-Tapia; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by Plaintiff arising out of the facts and circumstances that are the subject of this action.

5. By accepting Defendants' Offer of Judgment, Plaintiff waives Plaintiff's right to any claim for interest on the amount of the judgment.

6. By accepting Defendants' Offer of Judgment, Plaintiff agrees that the aforesaid payment of Three Thousand and One (\$3,001.00) Dollars, inclusive of Two Hundred and Fifty (\$250.00) Dollars from Joseph R. Vincent and Two Hundred and Fifty (\$250.00) Dollars from Grace Rosero-Tapia, to Andrew Gilbert within ninety (90) days of the date of acceptance of the offer -- that is, November 8, 2023 - shall be a reasonable time for such payment, unless Plaintiff received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will provide, payment in full or in part. If Plaintiff is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date the Plaintiff submits to Counsel for Defendants a final demand letter from Medicare.

7. By acceptance Defendants' Offer of Judgment, Plaintiff Andrew Gilbert agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff further agrees to hold harmless defendants City of New York, Joseph R. Vincent, Grace Rosero-Tapia, and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

Dated: New York, New York

~~2023~~
Oct. 28, 2024


HON.